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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,551	06/11/2001	Naftali Sauerbrun	71403-243311	2872

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Charanjit Brahma  
PILLSBURY WINTHROP LLP  
Suite 2800  
725 South Figueroa Street  
Los Angeles, CA 90017-5443

EXAMINER

MENON, KRISHNAN S

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 01/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/878,551

Applicant(s)

SAUERBRUN, NAFTALI

Examiner

Krishnan S Menon

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 18 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 33-38, 41-46, 49 and 50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 33-38, 41-46, 49 and 50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other

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### DETAILED ACTION

Claims 33-38, 41-46, 49 and 50 are pending in this application. Claims 2,3,39,40,47 and 48 are cancelled.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 33-38, 41-46, 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Storms (US4,169,059) in view of Marcus et al (US 4,126,560).

Storms (059) discloses a method of making sintered metal fiber filters comprising compressing and heat treating uniformly distributed metal fibers to form a mat (col 3: 20-34; col 4: 1-4); creating a filter by pleating the mat, forming the pleated mat to a cylinder and joining the ends by welding (as in claim 35, 43) (col 4: 4-7); coupling the filter thus formed with the end caps, and then finally sintering the filter with end caps to form the sinter bonds (col 4: 8-32). Storms (059) discloses use of backing screens with the metal fibril mat (as in claim 36,37,41,44,45) (col 4:1-4);

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multiple layers with different types (as in claims 33, 41, 49 and 50) (col 3: 57-63); (col 4: 1-5); and the welding rings (as in claim 34, 42) (col 4: 33-47); and the metals are selected from stainless steel, Ni, Hastalloy, etc. (as in claims 38, 46) (col 3: 4-8). The repair of the broken bonds (instant claim 31 and 33) would be an inherent property of the subsequent sintering process. In re King, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986).

Storms (059), even though teaches multiple layers of fibers of varying diameter (col 3 lines 12-14, 57-63, and col 4 lines 1-5) is not clear whether the different layers of stacked metallic fibers have different diameters. Marcus (560) teaches (figure, col 1 lines 47-col 2 line 9) layers of metallic fiber webs of different fiber diameter stacked together and then sintered to make depth filter having twice the on-stream life (col 1 lines 40-46) and holding capacity. It would be obvious to one of ordinary skill in the art at the time of invention to have multiple layers of fiber mats having different fiber diameter in different layers as taught by Marcus (560) for improved dirt holding capacity in the filter as taught by Storms (059).

### ***Response to Arguments***

Applicant's arguments filed on 11/18/02 have been fully considered but they are not persuasive.

Applicant argues that the "Storms reference" cited by the examiner does not disclose a method of forming a metallic filter involving a first layer of metallic fibers on top of a second layer of metallic fibers of different fiber sizes. The secondary reference, Marcus (560) teaches having one layer of one fiber diameter on top of another layer of a different fiber diameter.

Applicant argues that Storms reference teaches away from the present invention. Examiner believes that Storms reference, while teaching the diffusion membrane for bonding the filter with

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other components, also teaches that the same metallic fibril mat is used for the filter element or media as stated in the referenced lines above.

Applicant argues, "the diffusion bonding membrane is not described for use for does not state that ... may be used, as a filter element or media for filtering fluids, ... nor does it disclose a method of manufacture of a filter media". The Storms reference col 4 lines 1-8, lines 65-68, and examples 2 and 3 does teach using the fiber mat as a filter.

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krishnan S Menon whose telephone number is 703-305-5999. The examiner can normally be reached on 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Krishnan S. Menon  
Patent Examiner  
January 15, 2003

  
W. L. WALKER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700